

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MCKEITHAN QUANDRELL WHITLEY,)
)
Petitioner,)
)
v.) 1:16CV788
)
) 1:15CR321-1
)
UNITED STATES OF AMERICA,)
)
)
Respondent.)

ORDER

This matter is before this court for review of the Recommendation filed on April 30, 2018, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 31.) In the Recommendation, the Magistrate Judge recommends that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence (Doc. 22) be denied and that Judgment be entered dismissing the action, without issuance of a certificate of appealability. The Recommendation was served on the parties to this action on April 30, 2018 (Doc. 32). On July 6, 2018, Petitioner filed untimely objections (Doc. 33) to the Recommendation. See Fed. R. Civ. P. 72(b)(2) ("Within 14 days after being served with a copy of the recommended disposition, a party may serve and file . . . objections."). The court will take into consideration Petitioner's objections.

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation (Doc. 31) is **ADOPTED**. **IT IS FURTHER ORDERED** that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence (Doc. 22) is **DENIED** and that this action is dismissed with prejudice. A Judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 18th day of July, 2018.

William L. Osten, Jr.
United States District Judge